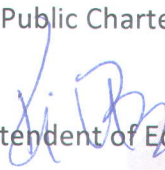


July 31, 2009

(X) ACTION REQUIRED
() INFORMATIONAL

TO: District of Columbia Public Charter Schools

FROM: Kerri L. Briggs, PhD 
Acting State Superintendent of Education

RE: Policies and Procedures for Placement Review, Revised

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This Memorandum serves to clarify the expectation of the Office of the State Superintendent of Education (OSSE) regarding changes to a child's placement that result in a more restrictive environment as outlined in the Individuals with Disabilities Education Act (IDEA), Title 38 of the District of Columbia Official Code, and Title 5 of the District of Columbia Municipal Regulations (DCMR). This Memorandum supersedes all previous policy, memoranda and/or guidance promulgated by the OSSE as the state education agency (SEA), and in particular, replaces the Policy and Procedures for Placement Review issued on September 19, 2008. This policy will become effective on or around October, 2009.

Background

The IDEA mandates that to the maximum extent appropriate, all children with disabilities be educated with their non-disabled peers in the least restrictive environment (LRE).¹ LRE can be

¹ 34 C.F.R. §300.114

achieved through inclusive practices in which all children, including those with significant disabilities, have an equal opportunity to receive a high quality instruction in the general education classroom with the necessary supplementary aids and services.³ A general education classroom is inappropriate only if the IEP team determines that the nature or severity of the child's disability is such that education in the general education classroom with the use of supplementary aids and services cannot be achieved satisfactorily.

To ensure LRE, local education agencies (LEAs) must provide a continuum of alternative placements to meet the needs of all children with disabilities.⁴ The continuum is a range of placements, such as general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, where an IEP can be implemented.⁵ LEAs should always consider placement in the general education classroom within the District of Columbia public school or public charter school before considering a more restrictive placement.⁶ Any alternative placement selected outside of the general education classroom must include appropriate opportunities for the child to interact with his/her non disabled peers.⁷

Responsibilities of LEA Charters

LEA Charters that have elected to be their own LEA for purposes of IDEA ("LEA Charter") are responsible for providing the full continuum of placements in the LRE.⁸ If a LEA Charter anticipates that it may be unable to meet its obligation, it must notify the OSSE, Department of Special Education (OSSE-DSE) prior to the IEP meeting to consider placement into a more restrictive environment. The OSSE, in its advisory role to the IEP team, may provide technical assistance to support efforts related to LRE objectives.

Responsibilities of District Charters

District of Columbia Public Schools (DCPS) is the LEA responsible for providing the full continuum of placements in the LRE for a public charter school that elects DCPS to serve as its LEA for purposes of IDEA ("District Charter"). If a District Charter anticipates that it may be unable to meet its obligation, it must notify DCPS, Office of Special Education (DCPS-OSE) prior to the IEP meeting to consider placement into a more restrictive environment.

³ See OSSE Memorandum No. 09-004 Least Restrictive Environment and Inclusion Policy.

⁴ 34 C.F.R. §300.115(a).

⁵ 34 C.F.R. §300.115(b).

⁶ D.C. Code § 38-2561.02.

⁷ 34 C.F.R. §300.114(a)(2)(i); OSSE Memorandum No. 09-004 Least Restrictive Environment and Inclusion Policy.

⁸ 34 C.F.R. §300.115.

Initiating the Placement Request Process

Prior to the IEP team meeting to discuss a possible Change In Placement (CIP), the LEA Charter or District Charter must document the need for a more restrictive environment in the Special Education Data System (SEDS). This documentation must include specific strategies that the LEA Charter or District Charter implemented and the supports and services utilized to ensure that the child had the opportunity to experience success in the classroom. Additionally, the LEA or District Charter must complete a change in placement (CIP) request and submit a completed Justification for Removal Statement (JRS) with the following information:

- 1) A description of the student's special education and related service needs;
- 2) A description of the services that have been considered by the team and implemented as strategies for success in the general education classroom or LRE;
- 3) A description of any specific placements under consideration or requested by the parents and/or the LEA; and
- 4) A description of provisional plans for reintegration back into a less restrictive learning environment.

A LEA Charter may submit a completed CIP and JRS to the OSSE by email (preferred), fax, or postal mail to:

Office of the State Superintendent of Education
Department of Special Education, Placement Oversight Unit
Attn: Yuliana Del Arroyo
51 N Street NE, 7th Floor
Washington, DC 20002
(202) 741-0478 (Office)
(202) 741-0227 (Fax)
Yuliana.Delarroyo@dc.gov or
osse.publiccomment@dc.gov

A District Charter may submit a completed CIP and JRS to DCPS by email (preferred), fax or postal mail to:

District of Columbia Public Schools
Office of Special Education
Attn: Peggy Peagler
825 North Capitol St. NE, 6th Floor
Washington, DC 20002

(202) 442-4800 (Phone)
(202) 442-5517 or (202) 442-5518 (Fax)
peggy.peagler@dc.gov or
osse.publiccomment@dc.gov

LEA Charters or District Charters that opt to send materials by fax or postal mail should obtain confirmation of delivery. Incomplete requests may cause a delay in processing. Upon receipt of the CIP and JRS, a placement reviewer will be assigned to oversee the case within one (1) business day.

At minimum, the OSSE DSE/DCPS OSE requires 30 days notice between the time of CIP and JRS submission and the IEP team meeting date to conduct a comprehensive review of the child's file in order to become well-informed of the issues, barriers to service, and placement options involved in each case.⁹ If the LEA Charter or District Charter determines the IEP team meeting must be held within a time frame shorter than 30 calendar days, the LEA Charter or District Charter must provide a written rationale for such consideration in the JRS notice.

Placement Review

Once the OSSE DSE /DCPS OSE has confirmed a meeting time, the LEA Charter or District Charter must submit copies of the child's current and past IEPs, all recent evaluations, report cards, documentation of behavioral incidents and/or related disciplinary actions, and any other relevant information that speaks to the child's level of need.

During the placement review process, the OSSE DSE /DCPS OSE may elect to visit a school site, and speak with family members or staff familiar with the student. A representative from the OSSE DSE /DCPS OSE will attend the CIP meeting to provide constructive input to the IEP team and to ensure that the LEA Charter or District Charter has exhausted its efforts in serving the student onsite. The OSSE DSE/DCPS OSE placement reviewer will also provide a recommendation regarding placement, indicating whether the placement into a more restrictive environment is "warranted" or "not warranted."¹⁰ A recommendation of "not warranted" does not negate the IEP team's placement decision nor prevent the child from being placed.

⁹ Public charter schools that have elected DCPS as their LEA for special education purposes ("district charters") should follow guidelines set by the Office of Special Education. For more information, please visit <http://www.k12.dc.us/offices/ose/index.htm> or call (202) 442-4800.

¹⁰ If for any reason the OSSE DSE/DCPS OSE representative does not attend the change in placement meeting, the IEP team must provide the meeting date and a copy of the relevant documentation to the OSSE DSE /DCPS OSE in as timely a manner as possible.

The IEP team, and not the OSSE DSE/DCPS OSE placement reviewer, will determine whether the needs of the child can be met in the current LRE with additional supports, or if the child's needs require a more restrictive placement. In this context, the term *placement* refers to the learning environment classified by level of restrictiveness (e.g. general education classroom, special education/resource classroom, or private facility).

Following an IEP team's decision to place a child into a more restrictive environment, the OSSE DSE /DCPS OSE will make a decision regarding location assignment. In this context, the term *location* refers to the actual school site or facility to which the child will receive his/her instruction. The OSSE DSE /DCPS OSE will assign a location based on the following order:

- 1) DCPS schools, or District of Columbia public charter schools pursuant to an agreement between DCPS and the public charter school;
- 2) Private or residential District of Columbia facilities; and
- 3) Facilities outside of the District of Columbia.¹¹

The OSSE DSE/DCPS OSE will issue a Notice of Location Assignment within ten (10) business days after the IEP team makes its placement decision. The OSSE DSE /DCPS OSE will mail a copy of this Notice to the child's parents, parents' representative, receiving school and nonpublic billing unit (if the child is attending a nonpublic school).¹²

Transportation

IDEA defines transportation as: (a) travel to and from school and between schools, (b) travel in and around school buildings, and (c) specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.¹³ Not all children with disabilities are eligible to receive transportation as a related service. Transportation is a related service when it is needed in order for the child to benefit from special education. If transportation to and from school for the general student population is provided, then transportation must be provided for a child with a disability in order to not discriminate against the child with a disability. If transportation is not provided for the general

¹¹ D.C. Code § 38-2561.02.

¹² The Notice of Location Assignment replaces the DCPS Prior to Action Notice form, which in the past documented this step.

¹³ 34 C.F.R. §300.34(c)(16).

student population, then the issue of transportation for children with disabilities must be decided on a case-by-case basis by the IEP team.¹⁴

If the IEP team determines that the child needs transportation to benefit from his or her special education, then a statement to that effect must be included in the IEP, along with any relevant details regarding the transportation. Additionally, if the IEP team determines that the parent will provide transportation; this should also be indicated on the IEP in a manner which includes any necessary arrangements to ensure that it is at no cost to the parent if it is a related service.

Parental Rights

The parental right to dispute the location assignment is unaffected by this policy. The parent still holds the same legal rights that apply to every aspect of the special education process. Therefore, when a disagreement occurs, the parent can request mediation, file a state complaint, or file a due process complaint.¹⁵ For further information on the parents' rights please refer to the Parent Procedural Safeguard Manual.

Compliance and Monitoring

Please be advised the OSSE may conduct unannounced monitoring activities to ensure LEA compliance with federal and local law.

Additional Guidance

Please direct any questions regarding the content of this memorandum to Grace Chien, LEA/Charter Policy and Implementation Specialist, at (202) 741-5098 or by email at Grace.Chien@dc.gov or osse.publiccomment@dc.gov.

¹⁴ 34 C.F.R. §300.320(a)(4).

¹⁵ 34 C.F.R. §§ 300.506, 300.507.